**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**

**COMPANY PETITION NO. 2 OF 2006**

**For Approval and Signature:**

**HONOURABLE MR.JUSTICE R.S.GARG**

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the Civil Judge?

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**SHYAM SUNDER AGARWAL & ANR. - Petitioner(s)**
**Versus**
**GOMTI PROCESSORS LTD. - Respondent(s)**

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**Appearance :**
MR. NAVIN K. PAHWA for Petitioner(s) : 1 - 2.
NONE for Respondent(s).

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**CORAM : HONOURABLE MR.JUSTICE R.S.GARG**

**Date : 19/04/2006**

**ORAL JUDGMENT**

1. Mr.Navin K.Pahwa, learned Counsel for the petitioners, submits that the present petition has been filed under Section 433/434 of the Companies Act, 1956 seeking winding-up of the respondent-Company. It is submitted that petitioner No.1 had advanced a loan of Rs.3,50,000/-, while petitioner No.2 had advanced a loan of Rs.1,50,000 to the

respondent-Company. The respondent-Company assured to deliver seven cheques of Rs.50,000/- each, all dated 27th October, 2004 bearing Cheque Nos.332876 to 332882 in favour of petitioner No.1 and three cheques of Rs.50,000/- each bearing Nos.332883, 332884 and 332886 in favour of petitioner No.2. Thereafter, the amount was not paid, therefore, the petitioners issued a statutory notice to the respondent-Company on 29th April, 2005, which was served upon the Company and the Company issued their reply on 24th May, 2005, denying the fact that the Company had issued cheques. The petitioners submit that the respondent-Company is still raising false pleadings to avoid payment and despite issuance of the cheques, it is denying its liability. It is submitted that the Company has become financially bankrupt, it's unable to pay the debts and cannot now survive.

2. It is to be seen that on 10th January, 2006, notice was issued to the respondents to show cause as to why the petition be not admitted and an order of winding-up be not passed. In spite of service of the said notice, nobody appeared for the respondent-Company. On 17th February, 2006, the Court, after admitting the petition, directed that the hearing be advertised in “Indian Express” (English) - Baroda Edition and “Gujarat Mitra” (Gujarati) - Surat Edition. The petitioners submit that the advertisements have already been effected, despite that nobody appears for the respondent-Company.

3. Taking into consideration the uncontroverted allegations made in the Company petition and that in spite of service of the notice and the advertisement, nobody appears to oppose the Company Petition, I hold that the Company has become financially unsound and bankrupt and it's unable to pay its debts. The Company is, accordingly, wound up. The Official Liquidator, associated with this Court, is appointed as an Official Liquidator. Within a period of six weeks from today, he shall take possession of the properties, movable and immovable, belonging to the Company, account books, cash in hand and cash lying in the accounts of the Company in the Bank/s. If required, the Official Liquidator may take assistance of the police to remove all resistance by anybody while taking possession and he shall also take help and assistance of the Official Valuer for preparation of the inventory/valuation report. He shall file his report within 10 weeks. This Company Petition stands disposed of.

***[R.S.Garg, J.]***

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